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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,717	04/19/2007	**Martin Paul Moshal**	06-201	4621

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EXAMINER	
LEICHLITER, CHASE E	

ART UNIT	PAPER NUMBER
3714	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/572,717	MOSHAL, MARTIN PAUL	
	Examiner	Art Unit	
	CHASE LEICHLITER	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 February 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *43-69* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *43-69* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 56-65, and 69 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

2. **Regarding claim 56,** the limitation of "at a menu system including a categorization device" was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 56-65, and 69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. **Regarding claim 56,** the preamble of "At a menu system including a categorization device and a display device, a method of operating the menu system so as to display" is indefinite as to whether this is a system claim or a method claim. If the preamble was rewritten "A method of operating the menu system, including a

categorization device and a display device, so as to display" it would further clarify that this claim pertains to a method.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 43-53, 55-65, and 67 are rejected under 35 U.S.C. 102(e) as being anticipated by Heaton et al. (US 20030109310).

Regarding claims 43 and 56, Heaton teaches a menu system comprising:

- The categorization device categorizing the available casino games into a plurality of different selectable game categories (Figs 3 and 8, paragraph 73);
- The display device displaying to the player, simultaneously (paragraph 33, lines 9-11);
- A) an identity of each one of the plurality of different game categories (Fig. 3, 302 is a list of casino games, some of which are tables games the other is a slot type);
- B) at least one attribute of each game in a selected one of the plurality of different game categories, wherein multiple games are categorized into the

selected one of the plurality of different game categories (Fig. 3, name of game); and

- C) additional game attributes of any selected one of the games in the selected game category (Fig. 3, paragraph 57).

Regarding claims 44 and 57, Heaton teaches at least one attribute displayed for each game in the selected one of the plurality of different game categories includes a name of the game (Fig. 3).

Regarding claims 45 and 58, Heaton teaches additional game attributes displayed for any selected one of the games in the selected game category includes any one or more of a size of a jackpot that can be won on the selected game, a plurality of different parameters of the selected game, a graphical representation of a display of the selected game, and a game status (Fig. 3, paragraph 56).

Regarding claims 46, 47, 59, and 60, Heaton teaches the game status is an active status when the selected game is ready for playing by the player, and an inactive status when the selected game is not ready for playing by the player and the selected game is ready for playing by the player when the selected game has previously been downloaded from a gaming server (Fig. 1, paragraphs 34 and 35, a game won't be ready to play until a game is downloaded unto the computing device such as a mobile phone).

Regarding claims 48 and 61, Heaton teaches the display device displays the plurality of different game categories to the player as tabbed categories (Fig. 2).

Regarding claims 49 and 62, Heaton teaches the display device displays the at least one attribute of each game in any selected one of the tabbed game categories in tabular column format in a scrollable window (Fig. 3, game names).

Regarding claims 50 and 63, Heaton teaches the display device displays simultaneously the additional game attributes for any selected one of the games in the selected one of the tabbed game categories in an adjacent non-scrollable window (Fig. 3).

Regarding claim 51, Heaton teaches a categorization facility operable to categorize the number of available casino games playable by the player into the plurality of different game categories (Fig. 8, game type 802).

Regarding claims 52 and 64, Heaton teaches the plurality of different game categories include games that are preferred by the player, games that are recommended by the online casino to the player for play, games that are new to the online casino, jackpot games offered by the online casino, table games offered by the online casino, video poker games offered by the online casino, and slots games offered by the online casino (Figs. 2 and 8).

Regarding claims 53 and 65, Heaton teaches any one of the number of available casino games is categorizable into more than one different game category (Fig. 8, game type 802).

Regarding claims 55 and 67, Heaton teaches the display device is operable to also display to the player the plurality of different game categories and the casino games in each category by means of a conventional fly-out menu (Fig. 8).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 54, 66, 68, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heaton et al. (US 20030109310) in view of Walker et al. (US 20040005919).

Regarding claims 54 and 66, Heaton teaches all the elements as previously claimed but fails to teach a category preferred by the player.

However, Walker teaches a category preferred by the player (Paragraphs 261 and 300).

11. Therefore Heaton and Walker are both analogous art because they both teach similar menu systems. It would be obvious to one of ordinary skill in the art to combine both Heaton and Walker because one would be motivated to have a preferred list of games to have a "favorite's list" of games to have easy and quicker access to said

game. All the claimed elements were known in the prior art and one skilled in the art could have provided a method for having a preferred list of games by known methods with no change in their respective functions, and the combination would have yielded predictable results.

Regarding claims 68 and 69, Heaton teaches categorizing casino games (Fig. 2) but fails to teach at least one of the available casino games is categorized into multiple categories of the plurality of different selectable game categories.

However, Walker teaches a category preferred by the player (Paragraphs 261 and 300, therefore a player could have a casino game categorized in casino games as well as in favorites).

12. Therefore Heaton and Walker are both analogous art because they both teach similar menu systems. It would be obvious to one of ordinary skill in the art to combine both Heaton and Walker because one would be motivated to have a preferred list of games to have a "favorite's list" of games to have easy and quicker access to said game. All the claimed elements were known in the prior art and one skilled in the art could have provided a method for having a preferred list of games by known methods with no change in their respective functions, and the combination would have yielded predictable results.

Response to Arguments

13. Applicant's arguments filed 02/13/2009 have been fully considered but they are not persuasive.

Regarding Heaton, Applicant argues, "Heaton does not disclose or suggest that the options category and/or the other suitable categories include at least one game category. Therefore, although Heaton discloses displaying one games category, Applicant submits that Heaton does not disclose or suggest the display device displaying to the player, simultaneously, an identity of each one of the plurality of different game categories, as recited in various ways in claims 43 and 56."

Examiner respectfully disagrees. Heaton teaches an identity of casino games, some of which are table games and the other is a slot type (see Fig. 3, 302 through 314). Heaton teaches at least one attribute, being the game names (see Fig. 3, 304 through 314). And Heaton teaches additional game attributes as being the name of the application (see Fig. 3, 300).

Further noted claims 43-55, and 68 have 35 U.S.C. 101 issues regarding high tech printed matter. Data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer, see MPEP 2106.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHASE LEICHLITER whose telephone number is (571)270-7109. The examiner can normally be reached on Monday through Friday 9am to 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571)272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. L./
Examiner, Art Unit 3714

/Dmitry Suhol/
Supervisory Patent Examiner, Art

Unit 3714